

REMARKS

In the Office Action mailed from the United States Patent and Trademark Office July 15, 2010, claims 1-11 were rejected under 102(e) as being anticipated by Hall et al. (7,107,231) hereinafter Hall. Accordingly, Applicant submits the following:

CLAIM REJECTIONS UNDER 35 U.S.C. § 102(e)

Claims 1-11 were rejected under 35 U.S.C. § 102(e) over Hall. Applicant respectfully submits Hall does not teach every aspect of the claimed invention. Accordingly, Applicant respectfully traverses this rejection. M.P.E.P. § 2131 sets forth the standard for a rejection of a claim as anticipated under 35 U.S.C. § 102. "To anticipate a claim, the reference must teach every element of the claim." M.P.E.P. § 2131 states further,

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). . . . "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Applicant respectfully submits that Hall fails to teach every element of the claim set as provided herein for the following reasons. In particular, Applicant respectfully notes that Hall does not include an interface layer that allows the client server system to selectively interact with a data layer at the central server system to allow each local store to actively modify the data layer, while the data is still resident at the service provider, a location that is geographically remote from each local store, to create a unique audio program consisting of customized music and customized general advertising, and wherein the data layer is customized by the interface at each local store, such that control over the audio program is experienced locally at the client server system, disseminated remotely from the central server system, and introduced into a store by the at least one client player device. Each of independent claims 1, 5 and 6 contains similar limitations, and such limitations are supported by the disclosure as originally filed.

In particular, Applicant asserts that the Hall reference fails to read on the presently claimed system which allows each local store to actively modify the data layer, located at the service provider, while the data is still resident at the service provider, a location that is geographically remote from each local store, to create a unique audio program consisting of

customized music and customized general advertising, and wherein the data layer is customized by the interface at each local store, such that control over the audio program is experienced locally at the client server system, disseminated remotely from the central server system, and introduced into a store by the at least one client player device. Rather, the cited art teaches a system, wherein customer may request certain types of data, and wherein some of the content provided to the customer may be generated and stored by a local office, but Hall does not describe a system that allows each local store to create a unique audio program consisting of customized music and customized general advertising by actually modifying the centrally stored data layer through an interface at each local store, such that control over the audio program is experienced locally at the client server system, disseminated remotely from the central server system, and introduced into a store by the at least one client player device.

Further, the particular passages of art cited in the pending Action fail to disclose a system such that control over the audio program is experienced locally at the client server system, disseminated remotely from the central server system, and introduced into a store by the at least one client player device.

In particular, col. 1 line 65 to col. 2, line 3 merely disclose a fuel dispenser provided with an advertising system, which displays advertising information during a fueling operation.

Col. 4 lines 17-38 merely discloses that the fuel dispenser comprise a CPU, monitor and control functions that allow display of content during a fueling stop.

Col. 4, line 61 to col. 5 line 21 disclose a system that allows a customer, not the local store, to enter loyalty data that allows the customer to receiving broadcasting corresponding to the customers stated preferences.

Col. 5 lines 22-62 discloses a system that allows a customer to select a channel that contains content they would prefer to watch, but does not disclose a system that allow the customer to actively modify the programming content resident at a central server. Accordingly, Hall teaches a system that allows a user to select the sports channel or the weather channel, but Hall does not disclose a system that allows customers to edit the data stream for the sports channel.

Col. 8 lines 9-45 disclose a system in which the local office is allowed to broadcast content contemporaneously with content being presented by the central office, allowing for example "the third commercial 508 [to be] reserved for advertising of the local office." This

disclosure fails to read on the concept of local control over a centrally stored data layer, while the data is still resident at the service provider, a location that is geographically remote from each local store, dissemination from the central server, and display at individual client player devices.

Col. 12 lines 23-27 disclose a system that allows the local offices to download the update and advertising information, and let the local offices pass the information to the fuel dispenser system. Hall does not disclose a system that allows the local offices or the fuel dispenser system to modify the data layer while the data layer is centrally stored at the service provider.

Finally, col. 17 lines 50-54 disclose an embodiment in which “[p]ersonel on duty at the time of announcements normally broadcast over television or radio could also enable a switch which would trigger input of such an announcement into the site master 900 for immediate presentation to customers.” The ability to interrupt the current broadcast with a local broadcast fails to read on the concept of local control over a centrally stored data layer, dissemination from the central server, and display at individual client player devices. Therefore, Hall does not disclose all of the features of claimed invention.

Additionally, Hall fails to disclose a system comprising a plurality of business chains each comprising a plurality of facilities at respective business locations. The art teaches a simple structure comprising a central server, a local server and a series of monitors. Hall does not disclose the more complex structure, which is recited in the claims of the present invention, of the central server system being connected to a chain network system which acts as a relay to a plurality of facilities at respective business locations, each of which maintains an independent server and a plurality of player devices for disseminating the communication of an audio visual message.

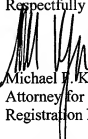
For at least this reason, Applicant respectfully submits that the prior art does not explicitly or impliedly teach every aspect of the invention as claimed in the independent base claims. In addition, the dependent claims place further limitations on otherwise allowable subject matter. Accordingly, Applicant respectfully submits that the cited art does not teach every aspect of the claims as provided herein and therefore does not render the claims obvious as provided herein.

CONCLUSION

Applicants submit that the amendments made herein do not add new matter and that the claims are now in condition for allowance. Accordingly, Applicants request favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

DATED this the 18 day of January, 2011

Respectfully submitted,


Michael J. Krieger
Attorney for Applicant
Registration No. 35,232

KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 321-4814
Facsimile: (801) 321-4893

JRM:law